

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2017

CORAM:

THE HON'BLE MR.JUSTICE HULUVADI G RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.6313 of 2017

and

W.M.P.Nos.7688 and 6807 of 2017

1. M/s. Sekar Stores Home Mart rep.by
its Partner Mr.S.V.S.Manivannan.
2. M/s. Sekar Stores Home Centre rep.by
its Partner Mr.S.V.S.Manivannan.
3. Mr.S.V.S.Manivannan
4. Mrs.Geetha Manivannan Petitioners

Versus

1. The Authorised Officer,
Pridhvi Asset Reconstruction & Securitisation
Company Ltd., Rajaprasadmu,
4th Floor, Wing No.1, Plot No.6, 6A, 6-B,
Masjid Bandar Road, Kondapur,
Hyderabad 500 084.
2. M/s.Mantra Industries Ltd.,
No.17, Shiv Ganga Apartments,
S.L.Road, Mulund,
(West) Mumbai-400 080.
3. The Debts Recovery Appellate Tribunal,
At Chennai, 4th Floor, Indian Bank Building,
No.55, Ethiraj Salai, Egmore,
Chennai-600 008. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent made in I.A.No.56 of 2017 in AIR (SA) No.13 of 2017 dated 20.02.2017, to quash the same and to direct the third respondent to take up the appeal filed by the petitioners without insisting on the mandatory deposit in terms of second proviso to Section 18 of SARFAESI Act and to decide the case on merits in accordance with law.

For Petitioners .. Mr.R.Ramasubramaniam Raja for
M/s.J.Arunprasad.

For Respondent-1 .. Mr.Srinath Sridevan

For Respondent-2 .. Mr.S.Durairaj
R-3 Court.

O R D E R

(Order of the Court was made by Huluvadi G Ramesh, J)

Heard Mr.R.Ramasubramaniam Raja, learned counsel appearing for the petitioners, Mr.Srinath Sridevan, learned counsel appearing for the first respondent and Mr.S.Durairaj, learned counsel appearing for the second respondent.

2. The Authorized Officer, Pridhvi Asset Reconstruction and Securitisation Company Limited the first respondent herein has issued a Tender cum Auction Sale Notice on 30.01.2016, in respect of the secured assets and Reserve Price was fixed at Rs.7,20,00,000/- only. As against the said sale notice, the petitioners herein have filed a SARFAESI Application in S.A.No.16 of 2016 before the Debts Recovery Tribunal-I, at Chennai and raised a ground that the first respondent has not taken proper valuation of the property brought for auction sale and the property was undervalued. The market value of the property would fetch more than Rs.25 Crores, but the first respondent has fixed the very low reserve price. Pending the above said S.A.No.16 of 2016, the secured assets have been sold by the first respondent company on 11.03.2016. Thereafter, said S.A.No.16 of 2016 was dismissed by the Debts Recovery Tribunal-I, Chennai, on 23.12.2016. Aggrieved over the said order, the petitioners filed an appeal before the Debts Recovery Appellate Tribunal, Chennai along with waiver application in I.A.No.56 of 2017 in AIR (SA) No.13 of 2017. The **3rd*** respondent passed an order on 20.02.2017 in I.A.No.56 of 2017 in AIR (SA) No.13 of 2017 directing the petitioners to deposit Rs.1.67 Crores with the 6th Respondent Registry within two weeks. Aggrieved by the said order, the petitioners have filed the present writ petition.

3. The grievance of the petitioners is that the first respondent had sold the property for just Rs.2001/- over the reserve price of Rs.7,20,00,000/- as if the 2nd respondent is the highest bidder. Whereas in fact the second respondent is the only bidder participated in auction sale, after the time for submission of tenders was over. Therefore, it is crystal clear that the first and second respondents herein have colluded and grabbed the valuable property of the petitioners, for the lesser value.

4. On the other hand, the learned the learned counsel appearing for the respondents submitted that the petitioners have not complied with the conditional order passed by this Court while granting an order of interim stay and as such the interim stay granted by this Court stands automatically vacated and therefore, prayed for dismissal of the writ petition.

5. From the order sheet appended to the writ petition, it is seen that this Court while granting an order of interim stay, on 15.03.2017, directed the writ petitioners to deposit a sum of Rs.25 lakhs before the third respondent Tribunal within a period of four weeks from the date of receipt of copy of the order, failing which the interim stay gets vacated automatically. But till date, the petitioners have not complied with the said order.

(*)

7. It is the submission of the borrowers that out of 1172.42 lakhs demanded by the **Bank*** they have deposited a sum of Rs.850 lakhs into the loan account between the period from 03.08.2013 to 05.09.2013 and Rs.60 lakhs have been as per the order of Debts Recovery Tribunal-III, at Chennai, all amounting to **Rs.935.00*** lakhs and the remaining amount payable by the borrowers is **Rs.237.42*** lakhs. The same has been disputed by the first respondent bank. In this regard, the parties can very well to urge before the Debts Recovery Appellate Tribunal, with regard to the disputed facts to enable them to arrive at a conclusion with regard to the exact amount due and payable by the borrowers. The Debts Recovery Appellate Tribunal is directed to pass necessary orders within a period of four weeks. It is for both the parties to approach the Debts Recovery Appellate Tribunal.

8. With the above directions, the writ petition is disposed of. No costs. Consequently, W.M.P.Nos.7688 and 6807 of 2017 are closed.

Sd/-

Assistant Registrar(CO)

dt.30.06.2017

Corrected as per order
dated 20.07.2017 in WP.6313 of 2017.

Sd/-

Assistant Registrar(CO)

Dt. 26.7.2017

//True Copy//

Sub Assistant Registrar

gr.

To

1. The Debts Recovery Appellate Tribunal,
At Chennai, 4th Floor, Indian Bank Building,
No.55, Ethiraj Salai, Egmore,
Chennai-600 008.
2. The Authorised Officer,
Pridhvi Asset Reconstruction &
Securitisation
Company Ltd., Rajaprasadmu,
4th Floor, Wing No.1, Plot No.6, 6A, 6-B,
Masjid Bandar Road, Kondapur,
Hyderabad 500 084.
3. M/s.Mantra Industries Ltd.,
No.17, Shiv Ganga Apartments,
S.L.Road, Mulund,
(West) Mumbai-400 080.

+1cc to Mr.J.ArunPrasad, Advocate.**SR.No.51506/17***
+1cc to Mr.Srinath Sridevan, Advocate.SR.No.44269

To be substituted
the order
already despatched
on 30.6.2017

CA (CO)
CS/30/06/17
EU 26.7.2017

W.P.No.6313 of 2017



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